

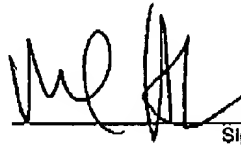
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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) CHA920010021US1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope address to "Mail Stop AF, Commissioner Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 09/990,842	Filed 11/21/2001
		First Named Inventor Moskowitz et al.	
		Art Unit 3639	Examiner Freda Ann Nelson
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>40019</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____		 _____ Signature _____ Michael F. Hoffman Typed or printed name _____ (518) 449-0044 Telephone number _____ March 31, 2006 Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14, and 41.8. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Moskowitz et al.

Art Unit: 3639

Serial Number: 09/990,842

Examiner: Nelson, F.A.

Filing Date: 11/21/2001

Docket N.: CHA920010021US1

Title: SECURE METHOD AND SYSTEM FOR DETERMINING CHARGES
AND ASSURING PRIVACY

Mail Stop AF
Commissioner For Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants respectfully request a panel of experienced examiners perform a detailed review of appealable issues for the above-identified patent application pursuant to the Pre-Appeal Brief Conference Pilot Program. Notice of Appeal has been filed together with this Request. Please charge Deposit Account No. 09 - 0469 for any fees required for filing this Request.

Applicants submit that the above-identified application is not in condition for appeal because the Office has failed to establish a *prima facie* case of obviousness because of errors in facts and in law. Claims 1-6, 8-17, 19-25 and 33-38 are pending and stand rejected. Applicants submit that these rejections are clearly not proper and without basis for the reasons stated below. (Please refer to the Final Office Action of 1/31/06 (OA) for the details of the rejection.)

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Applicants submit that the suggested combinations of the cited prior art do not disclose or suggest each and every claimed feature. For example, with regard to claims 1 and 33, the claimed invention includes, *inter alia*, “a security system comprises an encryption system for encrypting usage data transmitted between the sensor and the processor.” (Claim 1). As the Office admits, Dar does not disclose or suggest this feature. (See OA at p4.) However, Applicants submit that Van De Pavert also does not disclose or suggest, *inter alia*, this feature. In Van De Pavert, the communication of card data (or usage data) is between a card and a secure module 3 of a card operated device 2 (FIG. 2). Neither the card nor the secure module 3 gathers usage data from the remote apparatus because neither is a sensor. The card or the secure module 3 only exchanges data that are gathered by another device not of focus in Van De Pavert, e.g., a timer to record length of a phone call. However, Van De Pavert does not disclose or suggest encrypting usage data transmitted between a sensor, e.g., a timer, and the processor.

The above arguments also apply to cryptographic circuitry 54 of Van De Pavert (FIG. 4) because the device (card) of FIG. 4 is only an implementation of the FIG. 2 module using “commercially available components,” and cryptographic circuitry 54 does not encrypt usage data transmitted between the sensor, e.g., a timer, and the processor.

In addition, in Van De Pavert, block 125 (FIG. 3A) does not encrypt usage data, based on which the processor calculates a charge. In Van De Pavert, “block 125 executes a pre-defined cryptographic process to encrypt this code and the associated card data on which the code is based[.]” in a verification procedure. (Col. 9, lines 5-7, emphasis added). In Van De Pavert, the card data “includes ... a value of the current card balance[.]” (Col. 8, lines 64-65). However, in the verification procedure of Van De

Pavert, a card balance is not a usage data because a use of the card has not taken place.

A card balance at this stage may reflect previous usage, but the previous usage will not be used as a basis for calculating a current charge. Actually, Van De Pavert expressly discloses that "this procedure (including encryption) will not take place after each successive adjusting (e.g., reduction) of a card balance." (Col. 8, lines 5-6, parenthetical explanation added). As such, Van De Pavert does not encrypt a usage data, i.e., reduction of card balance.

In the OA, the Office asserts that "Van De Pavert teaches enciphering can be used both [*sic*.] in order to transmit the usage (balances) in a secure manner." (OA at p2). Applicants respectfully disagree because as discussed above, a starting balance of a card in the verification procedure of Van De Pavert does not reflect a usage based on which a charge is calculated. In view of the foregoing, Dar and Van De Pavert do not disclose or suggest "an encryption system for encrypting usage data transmitted between the sensor and the processor[.]" as claimed in the claimed invention.

With further respect to claims 1 and 33, Applicants submit that Dar and Van De Pavert do not disclose or suggest, *inter alia*, "calculating a charge on the processor based on the usage data." The Office alleges that this feature is taught in paragraph 0039 of Dar in which billing data is provided. However, a careful reading of the paragraph clearly reveals that the billing data is provided by a data processor that is not on the vehicle, but instead at a central unit. That is, the data processor that handles billing is located at a central unit that receives a communication from the on board communicator, not in a local data processing system installed on a remote apparatus. As detailed, c.g., in paragraph 0142 of Dar, the message communicated from the vehicle includes the

"identity of the vehicle, the parking location, and the date and time of the parking." As further disclosed, e.g., in paragraph 0157 of Dar, the billing system resides at the central unit. In other words, Dar fails to teach or suggest a system that calculates a charge on the processor that is "located on the remote apparatus." In addition, please note, in the Office Action, the Office does not provide a reason/explanation how and why Van De Pavert is used in the rejection of claim 33.

With respect to claim 16, the above arguments also apply. Applicants submit that Ando does not overcome, *inter alia*, the above-identified deficiency of Dar and Van De Pavert because Ando does not encrypt usage data transmitted between the sensor and the processor. The Office asserts that Ando discloses "a security system for protecting monetary data stored therein and ensuring legitimate communication with the stationary device." (OA at p5). Applicants respectfully submit that this assertion is irrelevant in this case because the current invention claims "an encryption system for encrypting usage data transmitted between the sensor and the processor (in the same local data processing system)." (Claim 1, parenthetical explanation added). In Ando, the communication is between an on-board device 20 and a stationary device 60, which are not in the same local data processing system. In view of the foregoing, Applicants respectfully request withdrawal of the rejection.

With respect to claim 23, the claimed invention recites, *inter alia*, "a security system, wherein the security system includes an encryption system for securing information transmitted to the central server, and for securing information processed by the central server." The Office Action alleges that the combination of Dar, Van De Pavert and Ando suggests the features of this claim. Applicants respectfully traverse


because neither reference teaches or suggests a security system "*for securing information processed by the central server.*" Particularly, in Ando, which is used by the Office to overcome the deficiencies of Dar and Van De Pavert regarding this claim, there is no teaching or suggestion that any information remains or is continually treated secure and encrypted once received and processed by the central server. Accordingly, Applicants submit that claims 23-25 are allowable over the art of record.

In addition, Applicants submit that by combining multiple, e.g., more than three, references without providing any support that there is reasonable expectation of success founded in the teachings of the references, many of the rejections made by the Office are weak. Applicants respectfully request reconsideration of those weak rejections.

In view of the foregoing, Applicants submit that the Office has failed to state a *prima facie* case of obviousness, and this application is not in condition for appeal and should either be allowed as is, or re-opened for further prosecution. Should the examining panel believe that anything further is necessary to place the application in better condition for allowance or for appeal, they are requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

Dated: 3/31/06



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